

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION CONCERNING THE	)	
PROPRIETY OF interLATA SERVICES	)	CASE NO. 96-608
BY BELL SOUTH TELECOMMUNICATIONS,	)	and
INC., PURSUANT TO THE	)	CASE NO. 2001-105
TELECOMMUNICATIONS ACT OF 1996	)	

O R D E R

The Commission, on its own motion, hereby closes Case No. 96-608 and opens Case No. 2001-105, to gather and evaluate evidence relating to the application to be filed by BellSouth Telecommunications, Inc. ("BellSouth") with the Federal Communications Commission ("FCC") requesting authority to provide in-region, interLATA services in Kentucky pursuant to Section 271 of the Telecommunications Act of 1996 ("Telecommunications Act"). We also set herein a partial procedural schedule for this proceeding.

We opened Case No. 96-608 in December 1996 to ensure that, when BellSouth, as a regional Bell operating company ("RBOC"), sought in-region, interLATA authority from the FCC, this Commission would be prepared to provide meaningful advice to the FCC pursuant to 47 U.S.C. § 271(d) regarding BellSouth's compliance with the requirements of 47 U.S.C. § 271(c)(2)(B) ("Fourteen Point Checklist"). For over 4 years, the Commission has conducted hearings and conferences, amassing a voluminous record relating to BellSouth's performance on the Fourteen Point Checklist items. However, BellSouth has filed no Kentucky application with the FCC, and the technology

upon which BellSouth must depend to provide nondiscriminatory access to other carriers has developed rapidly since 1996. Much of the record in Case No. 96-608 is now obsolete.

Accordingly, in order to expedite and streamline the current inquiry, we close Case No. 96-608. However, all parties to that case are, by this Order, made parties to this case, and all parties are advised that, should they consider any specific portion of the Case No. 96-608 record to be relevant to the current state of BellSouth's compliance with the Fourteen Point Checklist, they may move to have such portion incorporated into the record in this case.

Before leaving Case No. 96-608 behind, we incorporate by reference our Advisory Opinion of July 8, 1999 in that case, attached hereto as Appendix A, in which we advised the parties that BellSouth appeared at that time to have met seven of the requirements of the Fourteen Point Checklist. BellSouth should file updated information regarding these seven items, certifying that it remains in compliance with them, within 20 days of the date of this Order, and providing any other information regarding these items that it deems necessary. Other parties to this case may respond to such filing with reference to the specific, numeric checklist item to which the evidence pertains.

It is necessary to set a schedule for accumulation and evaluation of evidence in the current inquiry. BellSouth has complied with the requirement of our December 1996 Order in Case No. 96-608 that it notify this Commission at least 90 days before the projected date of its filing with the FCC. At an informal conference held at the Commission's offices on April 17, 2001, BellSouth discussed with Commission Staff and parties to this case its proposal to file with the FCC this fall, and offered a proposed

procedural schedule.<sup>1</sup> Among the pertinent dates proposed by BellSouth are June 7, 2001 as the Section 271 application filing with this Commission; July 7, 2001 as the date BellSouth will file May 2001 performance data and related testimony; and an approximate Commission decision date of September 28, 2001.

If BellSouth adheres to its proposed September 2001 filing date with the FCC, it is imperative that evidence, including testimony, be filed by all parties as soon as possible, and that evidence submitted by parties be complete, yet as streamlined as practicable. The Commission expects the parties to this case to provide, to the extent possible, all issues and evidence they expect to provide to the FCC when BellSouth files for Kentucky interLATA authority. The procedural schedule set out below contemplates that evidence from BellSouth and rebuttal evidence from other parties will be in the record by mid-June 2001. A hearing on performance measurement standards will be set by forthcoming Order in the near future, and a hearing on generic Section 271 compliance issues will be set shortly thereafter.

The upcoming hearing on performance measurement will result in a Commission Order establishing performance standards for BellSouth's Operational Support System, including standards for ordering, pre-ordering, processing, maintenance, repair, billing of competing local exchange carrier (CLEC) orders, and the adequacy of help information provided to CLECs.

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<sup>1</sup> See Memorandum of Informal Conference, Case No. 96-608, attached as Appendix B hereto.

IT IS THEREFORE ORDERED that:

1. The service list for Case No. 2001-105 shall be the same as the service list for Case No. 96-608 unless modified pursuant to requests for additions or deletions by current or intervening parties.

2. Within 20 days of the date of this Order, BellSouth shall file information regarding current compliance with the seven items on the Fourteen Point Checklist that the Commission found to have been met on July 8, 1999.

3. Within 10 days of the date of BellSouth's filing, other parties may file a response stating with particularity any dispute with BellSouth's statement of continuing compliance with specific checklist items.

4. Within 30 days of the date of this Order, BellSouth shall file information and evidence which will advise and inform the Commission of the general basis of its proof of Section 271 compliance, i.e., whether it intends to rely on data and results from the Georgia third-party testing procedure or another platform of evidence. Documentation should also include evidence:

a. To establish whether or not the proposed performance plan is appropriate for Kentucky.

b. To establish what disparity, if any, exists in the proposed test data systems and Kentucky systems.

c. To establish what modifications, if any must be made in the testing procedure for Kentucky application.

d. To establish whether the third-party test administration is independent, unbiased, and inclusive of CLECs.

e. To establish what differences, if any, exist between the proposed system and Kentucky in UNE pricing.

f. To establish whether there is functional equivalency between the proposed test plan and the system to be used in Kentucky, i.e., the functional equivalency of the DOE/SONGS systems.

g. To establish that testing data and results support OSS parity.

h. To establish its current UNE pricing and the basis thereof.

i. To establish the difference in policy between Kentucky and the proposed test plan jurisdiction, and the impact, if any, on the applicability of the test plan to Kentucky.

j. To establish appropriate enforcement measures.

5. Within 15 days of the date of BellSouth's filing, other parties may file a response stating with particularity any dispute with BellSouth's assertions and may file any evidence to refute BellSouth's evidence.

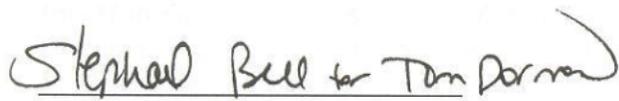
6. A hearing in this matter regarding performance measurement will be scheduled, by subsequent Order, as expeditiously as possible, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

7. A hearing on additional Section 271 compliance issues will be scheduled, by subsequent order, as expeditiously as possible, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

Done at Frankfort, Kentucky, this 26<sup>th</sup> day of April, 2001.

By the Commission

ATTEST:

  
Executive Director

**APPENDIX A**

APPENDIX TO AN ORDER OF THE

KENTUCKY PUBLIC SERVICE COMMISSION

IN CASE NO. 2001-105 (formerly Case No. 96-608)

DATED 4/26/2001

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION CONCERNING THE PROPRIETY )  
OF PROVISION OF INTERLATA SERVICES BY )  
BELLSOUTH TELECOMMUNICATIONS, INC. ) CASE NO. 96-608  
PURSUANT TO THE TELECOMMUNICATIONS )  
ACT OF 1996 )

ADVISORY OPINION

On December 20, 1996, on its own motion, the Commission instituted this proceeding in order to compile a record that would enable the Commission to advise the Federal Communications Commission ("FCC") as to whether BellSouth Telecommunications, Inc. ("BellSouth") should be permitted to enter the in-region, interLATA market in Kentucky pursuant to Section 271 of the Telecommunications Act of 1996, Pub.L.No. 104-104, 110 Stat. 56, 47 U.S.C. § 151 et seq. ("the Act"). The FCC will make its decision on BellSouth's application based on whether BellSouth has complied with the fourteen point competitive checklist at Section 271(c)(2)(B) (the "Competitive Checklist"); whether the in-region interLATA services will be provided in accordance with the separate affiliate requirements of Section 272; and whether in-region, intraLATA entry is consistent with the public interest, convenience, and necessity. 47 U.S.C. § 271(d)(3). This Commission is to advise the FCC as to whether BellSouth complies with the requirements of Section 271(c). 47 U.S.C. § 271(d)(2)(B).

BellSouth previously has filed notices of intent to file a Section 271 application regarding its entry into the in-region, interLATA market in Kentucky with the FCC. However, to date, BellSouth has filed no such application. On April 23, 1999, BellSouth filed a notice with this Commission withdrawing its previous statement of intent to file with the FCC. BellSouth states it will, however, continue to improve and enhance its systems and facilities for competitive local exchange carrier ("CLEC") support. BellSouth also reaffirms its commitment to comply with its obligations pursuant to the Commission's December 20, 1996 Order, including the obligation to provide the Commission with at least ninety days' advance notice before filing an application with the FCC for in-region, interLATA authority in Kentucky. On May 10, 1999, Intervenor AT&T Communications of the South Central States ("AT&T") filed a response to BellSouth's April 23 filing, stating, among other things, that the Commission should provide the parties with its view of the status of BellSouth's compliance with its obligations to open its local market to competition. This document, based on the record compiled to date, is issued in order to apprise BellSouth and other interested parties of those items on the Competitive Checklist which, in this Commission's opinion, BellSouth has met. Absent material changes in circumstance, the parties hereto need not submit additional evidence or argument in regard to these items.

In addition to AT&T, intervenors in this case include Sprint Communications Company L.P. ("Sprint"), MCI Telecommunications Corp. and MCI Metro Access Transmission Services, Inc. (collectively, "MCI"), American Communications Services of Louisville, Inc., American Communications Services of Lexington, Inc., and ACSI

Local Switched Services, Inc. all d/b/a e.spire Communications, Inc. (collectively, "e.spire"), BellSouth Long Distance, Inc. ("BellSouth Long Distance"), LCI International Telecom Corp. ("LCI"), WorldCom, Inc. ("WorldCom"), DeltaCom, Inc. ("DeltaCom"), the Competitive Telecommunications Association ("CompTel"), the ICG Telecom Group, Inc. ("ICG"), the Southeastern Competitive Carriers Association ("SECCA"), and the Telecommunications Resellers Association ("TRA").

A five day hearing on the matter was held before the full Commission during the week of August 25, 1997. An additional hearing was held more recently, on August 20-21, 1998.

#### The Legal Framework for BellSouth's In-Region, InterLATA Entry in Kentucky

Section 271 of the Act requires a regional Bell operating company ("RBOC") to show that it satisfies the requirements of either 271(c)(1)(A) ("Track A") or 271 (c)(1)(B) ("Track B") in order to receive FCC approval of its application to enter the interLATA market in its region. For the reasons stated below, as well as those reasons stated in its previous Orders in this docket, this Commission has concluded that BellSouth must comply with Track A requirements to provide in-region, interLATA service in Kentucky.

In its initial Order of December 20, 1996, the Commission first stated that Track A compliance by BellSouth would be required. 47 U.S.C. § 271(c)(1)(B) provides that only if no qualifying interconnection request is made may a Bell operating company enter the in-region, interLATA market by showing that it "generally offers" access and interconnection that meet statutory requirements pursuant to an effective Statement of Generally Available Terms. In 1996 interconnection requests were submitted to

BellSouth by competitors including intervenors e.spire (formerly “ACSI”), AT&T and MCI. Subsequently, the terms of interconnection with AT&T and MCI were arbitrated by the Commission in dockets numbered 96-482<sup>1</sup> and 96-431,<sup>2</sup> respectively. In both dockets, the Commission set appropriate rates and the parties' agreements incorporated those rates. The final interconnection agreements between BellSouth and AT&T and BellSouth and MCI were approved on August 21, 1997. In addition, an interconnection agreement between BellSouth and e.spire, which has constructed facilities in Kentucky, was approved by the Commission after an initial request for arbitration was withdrawn. It appears that the competitors in these cases negotiated with BellSouth in good faith and have taken steps to implement their respective agreements. Accordingly, pursuant to Section 271(c)(1)(B) of the Act, the Commission concludes that BellSouth has received qualifying requests for access and interconnection.

The plain meaning of the Act is that the SGAT is a Track B document and that its use is not an option if interconnection agreements have been sought by qualifying competitors. Because Track A is the only viable option for BellSouth in Kentucky, in this docket the Commission assesses the access and interconnection provided by BellSouth to requesting facilities-based carriers based upon two factors: [1] the

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<sup>1</sup> Case No. 96-482, The Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C.

<sup>2</sup> Case No. 96-431, Petition by MCI for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996.

adequacy of access and interconnection provided for in "one or more agreements" with competitors, Section 271(c)(2)(A); and [2] the practical ability of BellSouth to provide the agreed-upon access and interconnection in such a manner as to permit the competitor to compete on equal footing with BellSouth.

It is apparent that BellSouth has, in the past months, made advances toward achieving systems that will enable it to provide the necessary parity. Although not all of the conditions of Track A and the Competitive Checklist have been met, the Commission finds that BellSouth appears to be in compliance with the following items of the Competitive Checklist.

### **The Competitive Checklist**

Checklist Item 3, 47 U.S.C. § 271(c)(2)(B)(iii), requires BellSouth to provide nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by BellSouth at just and reasonable rates in accordance with the requirements of Section 224 of the Act. BellSouth's agreements obligate it to provide access to poles, ducts, conduits and rights-of-way it controls on terms that are reasonable and nondiscriminatory. There does not appear to be any reason why access cannot be given pursuant to these agreements. Empirical data necessary to reach a definitive conclusion on this checklist item is not available, due to the scarcity of competitors seeking access; however, the Commission finds that BellSouth appears to have met this item of the Competitive Checklist.

Competitive Checklist Item 8, found at Section 271(c)(2)(B)(viii), requires BellSouth to provide white page directory listings of customers' names, addresses, and

Telephone numbers that are nondiscriminatory in terms of appearances and integration and to ensure that listings are provided for competitors with the same accuracy and reliability as the listings it provides to its own customers. BellSouth states that it fully integrates CLECs' customers' white pages listings with its own and that it handles those listings precisely as it handles its own. The Commission notes that BellSouth permits CLECs to switch customers "as is," thereby greatly simplifying the process for changing local carriers, and, in such a case, the listing simply remains as it was. The absence of any difference in the way BellSouth handles CLEC customer listings indicates that reliability and accuracy are nondiscriminatory. This checklist item has been met.

Checklist Item 9 requires BellSouth to provide nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service. 47 U.S.C. § 271(c)(2)(B)(ix). Pursuant to this section, BellSouth must provide nondiscriminatory access to telephone numbers for assignment to competing carriers' customers until the date the telecommunications numbering administration guidelines, plan, or rules are established. After that date, BellSouth must comply with such guidelines, plans, or rules. A LEC providing nondiscriminatory access to telephone numbers provides competitors access to those numbers that is identical to the access that the LEC provides itself.<sup>3</sup> It must, accordingly, charge other carriers fees for the assignment of central office codes if the fee is uniform and is also charged to itself.<sup>4</sup> In addition, delays competitors must suffer that are not experienced by BellSouth itself

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<sup>3</sup> 47 C.F.R. § 51.217(c)(1).

<sup>4</sup> FCC Second Report and Order at §§ 328, 323-33.

would indicate that discrimination exists.

BellSouth has established procedures to provide nondiscriminatory NPA/NXX code assignments to CLECs. Its procedures conform to the Industry Numbering Council standards.<sup>5</sup> No requests from CLECs for NPA/NXX code assignments have been refused in Kentucky.<sup>6</sup> This checklist item has, accordingly, been met.

Competitive Checklist Item 10 requires BellSouth to provide nondiscriminatory access to databases and associated signaling necessary for call routing and completion. 47 U.S.C. § 271(c)(2)(B)(x). Databases and signaling are UNEs that must be provided on a nondiscriminatory basis pursuant to Section 251(c)(3). Comparison of the manner in which BellSouth obtains access to its databases and signaling network and the manner in which it provides such access to competitors is the crucial component of this inquiry.

BellSouth's agreements have been approved by this Commission and provide for nondiscriminatory access pursuant to this checklist item. Accordingly, this checklist item has been met.

Competitive Checklist Item 11, 47 U.S.C. § 271(c)(2)(B)(xi), requires BellSouth to provide interim telecommunications number portability through remote call forwarding,

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<sup>5</sup> BellSouth 1998 Brief at 56.

<sup>6</sup> BellSouth 1998 Brief at 56; Milner 1998 Direct Testimony, at 9-10.

direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible.

BellSouth appears to meet the standard for interim number portability and has complied with Commission Orders and the industry standards in this regard. No intervenor asserts to the contrary. Accordingly, this checklist item has been met.

Competitive Checklist Item 12, 47 U.S.C. § 271(c)(2)(B)(xii), requires BellSouth to provide "[n]ondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3)." Section 251(b)(3), in turn, imposes upon all LECs "[t]he duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory services, directory assistance, and directory listing, with no unreasonable dialing delays." Dialing parity exists if a competitors' customers are able to "route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer's designation from among 2 or more telecommunications service providers (including such local exchange carrier)." 47 U.S.C. § 153(15).

BellSouth has demonstrated that customers of competing carriers do not have to dial additional digits to complete a local call and that there are no "unreasonable dialing delays" experienced by such customers. BellSouth also notes it is unaware of any complaints from CLECs that they or their end-users must dial any access codes or

additional digits to complete a local call.<sup>7</sup> Accordingly, BellSouth has met this item of the checklist.

Competitive Checklist Item 13, at Section 271(c)(2)(B)(xiii) of the Act, requires BellSouth's access and interconnection to include "[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2)." Section 252(d)(2)(A) provides that terms and conditions for reciprocal compensation are just and reasonable only if they provide for recovery by each carrier for costs associated with transport and termination of calls that originate on the facilities of the other carrier and if they calculate those costs on the basis of reasonable approximation of the additional costs of terminating those calls.

The parties to this proceeding dispute whether BellSouth has met this item of the checklist. The principal objection to BellSouth's reciprocal compensation arrangements appears to be that BellSouth will not provide compensation for termination of internet service provider ("ISP") calls because, in BellSouth's opinion, such traffic is interstate rather than local. Other carriers dispute this characterization and have filed formal complaints with this Commission demanding compensation for termination of ISP calls.<sup>8</sup> The Commission has not yet issued its decision in these cases. In order to avoid prejudgment of the issue, the Commission declined, in Case No. 98-348,<sup>9</sup> to approve a

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<sup>7</sup> BellSouth 1998 Brief at 61.

<sup>8</sup> See Case No. 98-212, American Communications Services of Louisville, Inc. d/b/a e.spire Communications, Inc. American Communications Services of Lexington, Inc. d/b/a e.spire Communications, Inc., ALEC, Inc. and Hyperion vs. BellSouth Telecommunications, Inc.

<sup>9</sup> Case No. 98-348, Investigation Regarding Compliance of the Statement of Generally Available Terms of BellSouth Telecommunications, Inc. with Section 251 and Section 252(d) of the Telecommunications Act of 1996.

restrictive provision regarding reciprocal compensation for ISP traffic in its case regarding BellSouth's proposed SGAT. It reaffirms that decision here. The Commission notes that the FCC, in its decision denying BellSouth's application to provide in-region, interLATA service in Louisiana, declined to consider the ISP traffic issue, although it stated that any future grant of in-region interLATA authority will be conditioned on compliance with decisions relating to Internet traffic in Louisiana.<sup>10</sup> The FCC has since entered a declaratory ruling finding that ISP-bound traffic is "jurisdictionally mixed," but "largely interstate" and that "parties should be bound by their existing interconnection agreements, as interpreted by state commissions."<sup>11</sup> Such interpretation has not yet been issued in Kentucky. Accordingly, at present, this checklist item appears to have been met.

## CONCLUSION

Based upon the foregoing, it is the conclusion of this Commission that although BellSouth has not achieved full compliance with the Competitive Checklist at Section 271 of the Act, it has met seven of the fourteen checklist items. This docket remains open to enable BellSouth and other interested parties to file relevant information. The Commission will continue closely to monitor BellSouth's development of its systems, and it urges the FCC to provide further guidance in developing industry standards,

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<sup>10</sup> Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana, CC Docket No. 98-121 (October 13, 1998) at 13-14.

<sup>11</sup> Inter-Carrier Compensation for ISP-Bound Traffic, Declaratory Ruling and Notice, CC Docket No. 99-68 (released February 26, 1999), at & 1.



**APPENDIX B**

APPENDIX TO AN ORDER OF THE

KENTUCKY PUBLIC SERVICE COMMISSION

IN CASE NO. 2001-105 (formerly Case No. 96-608)

DATED 4/26/2001

**INTRA-AGENCY MEMORANDUM**  
**PUBLIC SERVICE COMMISSION**

TO:	Case No. 96-608--Main Case File
FROM:	Bonnie Kittinger
DATE:	April 23, 2001
RE:	INVESTIGATION CONCERNING THE PROPRIETY OF PROVISION OF INTERLATA SERVICES BY BELL SOUTH TELECOMMUNICATIONS, INC., PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996

On April 17, 2001, an informal conference was held in this case pursuant to notice by the Commission to parties of record on March 22, 2001. Attendees are shown on the attached sign-in sheet.

Jeff Johnson, of Commission Engineering Staff, welcomed attendees and asked participants to identify themselves. Staff announced that the conference was being broadcast over the Commission's web site because of widespread interest from other telecommunications carriers and state regulatory agencies.

Mr. Johnson also advised that the Commission is likely to close the above-captioned case, 96-608, and open a new case to consider BellSouth Telecommunications, Inc.'s Section 271 case in Kentucky. He pointed out that some of the material in 96-608 is five years old and that most of the information is outdated. Parties may move to incorporate individual, relevant and current information from 96-608 into the new file. He also informed the parties of the Commission's intention to begin gathering performance measures information to supplement BellSouth's 271 requirements.

BellSouth was invited to begin its presentation by addressing the issues listed in the Staff notice. Fred Gerwing of BellSouth advised the group that third-party testing of BellSouth's Operating Support System (OSS) is complete in Georgia and that a report has been issued by the KPMG Consulting Team. BellSouth envisions a region-wide filing of Section 271 applications in mid-to-late September 2001. According to BellSouth, the Georgia test was expanded to include region-wide applications. BellSouth feels the testing procedures now meet FCC standards.

Mr. Gerwing noted that the Commission has previously determined that seven of the 14 Section 271 "checklist items" had been satisfied by BellSouth; however, he stated that BellSouth is prepared to augment and update the information regarding

these seven items so that a current record can be established for the benefit of the FCC.

BellSouth represented that it is processing 250,000-300,000 local service requests from competitive local exchange carriers (CLECs) per month; that CLECs now control 85,000-90,000 operating lines in Kentucky; and that 20% of the state's business lines are controlled by CLECs.

Next, Steve Rausch presented BellSouth's proposed Kentucky 271 Activity Schedule. The proposed schedule indicates a filing with the Kentucky Commission on June 7, 2001, to include the filing of testimony on checklist compliance, OSS, xDSL, Operations Centers, Billing, SQM/PAP, and line sharing/line splitting. The June 7, 2001 filing will also include affidavits addressing several issues.

According to the proposed activity schedule, the May 2001 performance data, and testimony thereon, will not be filed until July 10, 2001. BellSouth is proposing that rebuttal testimony be filed on July 24; that it refile its SGAT tariff on August 1, as well as any surrebuttal testimony; and that a hearing be held by the Commission beginning on August 7, 2001. June 2001 performance data would be filed on or after the hearing dates and July performance data would be filed on September 10, 2001, according to BellSouth's proposed timetable.

BellSouth's schedule proposes that an advisory opinion order be issued by the Commission on September 28-30, 2001. Mr. Rausch stated, however, that BellSouth does not intend to take the Kentucky 271 application to the FCC until it has an indication from the FCC that the Georgia application will be approved.

BellSouth attorney Fred McCallum discussed the case that BellSouth will present to the Kentucky Commission and to the FCC. He stated that BellSouth is prepared to show that there is widespread competition in Kentucky through its evidence of "Track A" facilities-based competition.

BellSouth agreed with the Commission Staff's plan to utilize electronic filing procedures because of the volume of paper, including guides and manuals prepared for CLECs and hundreds of pages of testimony. It was proposed that much of the material could be submitted by CD ROM plus one paper copy.

BellSouth wants the Commission to adopt and accept the Georgia performance measures and test results as evidence of its non-discriminatory performance in Kentucky. In response to a question from an AT&T representative as to why the Georgia data should be considered instead of that of another state, such as Tennessee, Mr. McCallum stated that the process is not far enough along in Tennessee. Moreover, he said, if the FCC accepts the Georgia application, the Kentucky Commission will have some level of confidence that there is a similar record for Kentucky at the FCC.

Further questions were asked regarding the status of filings in other states. North Carolina's Section 271 application was filed on April 13, 2001. In Georgia, a

procedural schedule was to be voted on on April 17. BellSouth expects a Georgia staff recommendation around mid-June, following a hearing at the end of this month. Hearings on issues and performance measures are also scheduled in Florida for April 23-26, 2001. Florida's process is not as near to completion as the one in Georgia. BellSouth contemplates regional filings, including the one in Kentucky, to be patterned after filings in Kansas and Oklahoma, two states wherein the FCC has approved the provision of an RBOC's in-region, interLATA services.

BellSouth's next presenter was Bill Stacey, who began by describing KPMG Consulting's most recent update to the Florida Commission Staff. The report identified 44 exceptions and 56 observations which, BellSouth states, have now been reduced to 39 exceptions and 17 observations. He expects the actual testing to be completed in late July 2001; however, an AT&T representative stated that the July completion date is based on the assumption that no more defects would be noted by the consulting team, which may be unlikely. If a late July test report is issued, hearings will likely take place in October, and a Commission opinion order could come out in late November, December or early January 2002.

In response to a question, Mr. Stacy advised that although the performance testing in both Georgia and Florida is "blind" to BellSouth, once a component testing begins, it becomes obvious because of increase in volume.

Mr. Stacy's presentation included discussion of a slide projection program, which was also provided as a handout entitled "KY PSC Update, Georgia 3<sup>rd</sup> Party OSS Test, Performance Metrics" dated 4/17/01. He reiterated that the Georgia test evolved into a regional test process and offered the opinion that the testing process in Georgia was as comprehensive a test as the tests administered in New York and Texas, both of which states have received FCC approval.

An issue was raised that testing of like services passed in Georgia yet created exceptions in Florida. AT&T suggested that perhaps no one looked for exceptions in Georgia that were found in Florida. BellSouth noted that despite exceptions and observations found by KPMG in Florida, there is significant commercial usage in Florida and CLECs are generating 250,000-300,000 LSR orders per month. Mr. Stacy stated that from a practical perspective, and from the perspective of the FCC, the existence of commercial usage obviates the need for third-party testing.

BellSouth states that the areas not specifically tested by KPMG Consulting are validated by volume and other usage results. AT&T stated that volume does not equal quality. BellSouth countered that over 400 CLECs have established a business relationship with BellSouth there, and maintained that its relationship with KPMG has not jeopardized the consultant's independence in any way. BellSouth states that it has satisfied 1106 of the 1171 criteria tested in Georgia, a 96% satisfaction rate.

Mr. Stacy next explained that BellSouth has hired Price Waterhouse Coopers ("PWC") to conduct an audit of its OSS as to scope, methodology and management

assumptions or assertions. The result of the audit will include appraisal of BellSouth's management assertion that there are no material differences in functionality or performance of the DOE and SONGS systems. SONGS is the SOCS access system used in Kentucky and the remainder of the old South Central Bell system. DOE is the SOCS access system used in the old Southern Bell System, which includes both Florida and Georgia. The report from PWC, which is similar to an audit by Ernst & Young in Kansas and Oklahoma, is expected by the end of this month or early May 2001.

Mr. Stacy explained that the arrangement with PWC is a private contract between BellSouth and PWC, with no Commission oversight or CLEC involvement, and that PWC is also BellSouth's corporate auditor.

AT&T asked the Commission Staff to look closely at the level of involvement by CLECs in Georgia and Florida testing. AT&T also produced a handout comparing the Georgia and Florida tests. BellSouth stated it would provide its version of the same data. BellSouth stated that it considers third-party testing to be a third level of evidence, not as valuable as carrier-to-carrier interface and commercial usage data.

Comments from the Commission Engineering Staff indicated that this Commission would probably want an independent third-party pseudo-CLEC to "push some orders through the system" in Kentucky to ascertain how the SONGS software actually performs as part of the systems process, and in particular to verify that there are no substantial differences between DOE and SONGS. The Engineering Staff comments indicated that end-to-end analysis of CLEC orders in Kentucky, which has yet to be tested in the prior South Central Bell states, would be important to be able to draw valid conclusions about the parity of BellSouth's OSS performance in Kentucky.

In response to a question as to why BellSouth did not use ROS, the system developed for BellSouth's internal use, for CLEC orders instead of DOE and SONGS, the systems it uses for CLEC orders, BellSouth replied that ROS cannot process UNE orders.

In response to a question from Commission Staff about why BellSouth wants to file the Section 271 application in Kentucky as early as June 7 when no performance data would be available until July 10, BellSouth responded that it felt that Staff would want the application and testimony regarding checklist compliance as early as possible so that the volume of material would not be so overwhelming. Staff commented that it would also like sufficient lead-time to examine performance measurement data prior to a hearing date. BellSouth stated that it needs approximately 40 days after receipt of the raw data from KPMG Consulting to "massage" the data before providing it to the Commission.

David McDowell of the Commission Staff discussed electronic filing. Ordinarily, as in the most recent electronic filing case, parties are expected to notify the Commission that they want to participate electronically and are given a password. With the password the parties can access our electronic filing rules and the Staff can provide

supplemental information. Parties will file one paper copy of everything that is to go in the record. Additional information and instruction regarding electronic filing will be contained in the Commission's first procedural order.

The Commission Staff was asked to consider allowing e-mail service on parties in addition to electronic filing with the Commission.

Rhonda Merritt from AT&T presented a brief overview of the Florida testing procedure, pointing out that over 100 exceptions and observations were noted. She stated that the Florida testing is more comprehensive than the Georgia testing. AT&T provided several document handouts, including a copy of its March 13, 2001 Notice of Oral Ex Parte submittal to the FCC.

This concluded the informal conference.

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION CONCERNING THE PROPRIETY OF  
PROVISION OF INTERLATA SERVICES BY  
BELLSOUTH TELECOMMUNICATIONS, INC. PURSUANT TO  
THE TELECOMMUNICATIONS ACTION OF 1996.

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CASE NO. 96-608

=====

April 17, 2001 Informal Conference

Please sign in:

NAME	REPRESENTING
Jack Hughes	Sprint
GARRY SHARP	AT&T
Rhonda Merritt	AT&T
Ann Louise Chaurot	OAG
Amanda Hale	PSC
Waherah Eversole	PSC
JAY BRADBURY (By Phone)	AT&T
Sharon Norris "	AT&T
Jim Lamoureux "	AT&T
Amy I. Donoherty	PSC
Bonnie G. Hattings	PSC
Susan Berlin	MCI-WorldCom

COMMONWEALTH OF KENTUCKY  
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April 17, 2001 Informal Conference

Please sign in:

NAME	REPRESENTING
FRED GERWING	BELLSOUTH
FRED McCALLUM	
BIL STACY	
STEVE RAUSCH	
PAT KLEIN	
CHARLE JACKSON	
CINDY CORBETT	
OREICATON MERSTON	
JORN COLEMAN	
JIM TIPTON	
JEFF JOHNSON	PSC
Bill Atkinson	Sprint
Jon Hamm	Sprint